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**BEFORE THE  
ARIZONA CORPORATION COMMISSION**

WILLIAM A. MUNDELL  
CHAIRMAN

JIM IRVIN  
COMMISSIONER

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COMMISSIONER

Arizona Corporation Commission

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IN THE MATTER OF THE GENERIC )  
PROCEEDINGS CONCERNING )  
ELECTRIC RESTRUCTURING ISSUES )

DOCKET NO. E-00000A-02-0051

IN THE MATTER OF ARIZONA PUBLIC )  
SERVICE COMPANY'S REQUEST FOR )  
A VARIANCE OF CERTAIN REQUIREMENTS )  
OF A.A.C. R14-2-1606. )

DOCKET NO. E-01345A-01-0822

IN THE MATTER OF THE GENERIC )  
PROCEEDING CONCERNING THE ARIZONA )  
INDEPENDENT SCHEDULING )  
ADMINISTRATOR )

DOCKET NO. E-00000A-01-0630

IN THE MATTER OF TUCSON ELECTRIC )  
POWER COMPANY'S APPLICATION FOR A )  
VARIANCE OF CERTAIN ELECTRIC )  
COMPETITION RULES COMPLIANCE DATES )

DOCKET NO. E-01933A-02-0069

IN THE MATTER OF THE APPLICATION OF )  
TUCSON ELECTRIC POWER COMPANY FOR )  
APPROVAL OF ITS STRANDED COST )  
RECOVERY )

DOCKET NO. E-01933A-98-0471

**COMMENTS OF DUKE ENERGY NORTH AMERICA**

**Introduction**

Duke Energy North America (DENA) respectfully submits its comments as part of the Arizona Corporation Commission's ("Commission") generic proceeding concerning restructuring issues. DENA and its affiliates provide a wide variety of energy supply services in various US electricity markets, including wholesale power plant development and operation, market-based power marketing, fuel sales and delivery, risk management services, regulated

electric transmission and interstate natural gas transportation and storage services, and state-regulated retail electric services. DENA's ability to provide many of these services to consumers depends upon our being both an effective user and supplier of competitive energy services. Therefore, DENA hopes that the Commission views our comments as representative of the balance of perspectives in the industry and as demonstrating the need for restructuring to work both for suppliers and consumers of competitive services. Inasmuch, DENA has not offered answers to each specific question posed by the Commissioners but rather has addressed general issues of concern. Embracing all stakeholders in the market formation process, while a formidable task, will yield clarity on the issues and ultimately produce market designs that ensure reliable and affordable electricity supply for all classes of consumers.

### **Robust Wholesale Market Is Vital**

DENA supports the recent efforts of the Commission to work to ensure we 'get it right' in Arizona. Experience shows that retail markets cannot operate well without the underpinning of a sound wholesale market; and wholesale procurement practices for utilities selling bundled retail service can be more efficient and easier to regulate only when wholesale markets are designed correctly. We believe that a solid wholesale market is developing here in Arizona and the Southwest region.

Wholesale generators are in the process of, or have completed, developing more than 7,000 MW of new generation and another 4,600 MW is in the early planning stages having yet to receive Commission approval. This new development is not the result of one or two wholesale generators but rather multiple wholesale generators participating in the development of the Arizona market. The market is working by sending signals that new infrastructure is needed. Also the creation of a Southwest RTO (e.g. Westconnect) will provide the framework and structure for wholesale competition in Arizona and the region. DENA recognizes and supports the statutory mandate that the Commission balance the need for new wholesale generation supply and the benefits to Arizona, with environmental consideration. Wholesale generators building in the state use cutting edge, clean technology that will have minimal environmental impacts. Also, within the state is the extremely liquid Palo Verde trading hub which helps support and create a vibrant wholesale market by allowing power to be transacted throughout the state and also allows for Arizona to receive supply from other states in the western region.

In addition to a liquid supply market, an effective wholesale generation market needs reliable electric transmission and gas transportation capacity. In the last few years, the Commission has increased its review and oversight of Arizona's transmission system. The Commission has asked both transmission providers, such as Arizona Public Service ("APS") and the Salt River Project ("SRP"), as well as wholesale generators to participate in improving Arizona's transmission system. For instance, DENA will fund substantial upgrades in the Palo Verde area transmission system as part of its construction of the Arlington Valley II Energy Facility. The Federal Energy Regulatory Commission ("FERC") has a process for arranging interconnection and transmission. That FERC process coupled with the development of a competitive wholesale market and effective Regional Transmission Organization ("RTO") will go a long way toward resolving transmission concerns. The transmission providers must participate fully in this process because ultimately they must build and operate the transmission system.

With respect to natural gas transportation issues, FERC also has proceedings pending to address such issues (e.g. Intra-Day Recall Notice of Proposed Rulemaking ("NOPR"), Affiliate NOPR, individual company's filings to comply with FERC Order Number 637). At the state level, DENA has agreed to initiate a gas study group that will report to the Commission on Arizona gas transportation reliability and capacity issues. Members of the gas and wholesale power industries will participate in this process as well as Commission staff.

### **Wholesale Competition Benefits Consumers**

Arizona consumers should be able to enjoy the benefits associated with the competitive wholesale market. When wholesale generators compete, consumers win. Wholesale generators are willing to take on the risk of new wholesale generation development thereby shielding consumers from this risk. The Commission recognized the potential benefits associated with wholesale generation in their Electric Competition Rules, which require that utilities procure 50% of their generation for standard offer consumers from the wholesale market. DENA encourages this Commission to carry forth the principles of wholesale competition that are embedded in this portion of the Electric Competition Rules.

A competitive bid, by design, results in the lowest cost wholesale generator(s), whether non-affiliated, affiliated, or both, supplying power and thereby resulting in lower prices for consumers. A competitively bid process may result in a number of wholesale generators

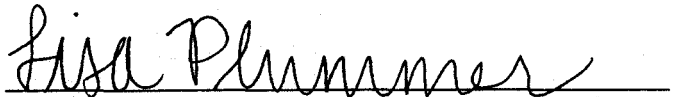
winning the bid to supply. Having numerous wholesale generators in close proximity, coupled with a diverse portfolio of supply options (short, medium, long-term), will increase reliability and help to mitigate the risk of price volatility in the market.

Commission approval of the APS/Tucson Electric Variance request will result in consumers not knowing if they have the lowest price available and will result in consumer dependence upon one supplier (affiliated generator) offering one type of contract (long-term only). One need to look no further than recent news headlines to see the risk of not diversifying.

### **Conclusion**

In closing, DENA urges the Commission to adopt policies that will encourage the further development of the wholesale market. Wholesale generators have and intend to continue to build generation in Arizona to serve consumers. Commission approval of the Variance will result in preferential treatment to the affiliated generation company and will stifle wholesale competition. In the spirit of encouraging competition, DENA urges the Commission to, at a minimum, require utilities to competitively bid for 50% of their standard offer load and let the best offer win. We feel that Arizona consumers are the winner when a robust, competitive wholesale market is allowed to operate. DENA looks forward to the opportunity to participate in future discussions on these and related matters.

Respectfully Submitted,

A handwritten signature in cursive script, reading "Lisa Plummer", written over a horizontal line.

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